IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUIT NO. 27 OF 1984

Mahesh Paper Mart ....Plffs.
vs.
Kumar Metals P.Ltd ....Defnds.

D. Mehta i/b. M/s. Dhruv and Liladhar and Co. for the plffs.

Ms. Poonam Shivgaonkar i/b. C.D. Shah for the defendants.

CORAM: S.U. KAMDAR, J.

DATE : 8TH AUGUST, 2005.

P.C. :

1. The present suit is filed for the recovery of sum of Rs.75,537.48/- alongwith interest on the principal amount of Rs.57,233.48/- at the rate of 24% from the date of the filing of the suit till payment and or realisation.

2. The suit is in respect of the goods sold and delivered under two invoices both dated 3.6.1982. It is the case of the plaintiff that the goods were delivered and hundies were issued

inrespect of the said two invoices which has been signed by the defendant. However on presentation the same has been dishonoured. In view thereof the present suit has been filed for the recovery of the aforesaid amount. The plaintiffs have by their notice had called upon the defendant to make payment. However the defendants refused to make payment on one pretext or the other.

3. The present matter was on board on earlier occasions i.e. on 26.7.2005, 2.8.2005, 3.8.2005 and today. Learned counsel appearing for the defendants state that he has no instructions in the matter. Learned counsel for the plaintiff has restricted his claim to Rs.25,000/- which was deposited in Summons for Judgment No. 78 of 1984 in Suit No. 27 of 1984 in this court by the defendants and interest accrued thereon. He gives up the balance claim.

4. In view of the aforesaid I pass the following decree for sum of Rs.1,69,733/-. The plaintiff will be entitled to withdraw the same

from the office of the Prothonotary and Senior Master and on such withdrawal the suit claim will be marked satisfied.

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